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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,708	08/12/2003	Christine K. Shewmaker	MONS:052US	1707
46795 7590 05/30/2007 FULBRIGHT & JAWORSKI, L.L.P. 600 CONGRESS AVENUE, SUITE 2400 AUSTIN, TX 78701			EXAMINER MCELWAIN, ELIZABETH F	
			ART UNIT 1638	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/604,708	Applicant(s) SHEWMAKER ET AL.	
	Examiner Elizabeth F. McElwain	Art Unit 1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment filed March 2, 2007 has been entered.

Claims 1 and 10 are currently amended.

Claims 1-10 are examined on the merits.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

Claims 11-20 are withdrawn from consideration as non-elected without traverse.

Specification

1. A substitute specification including the claims is required pursuant to 37 CFR 1.125(a) because the originally filed specification has an unacceptably large type font making both the specification and claims extremely hard to read. A substitute specification is required that complies with the suggested font, font size and line spacing set forth in 37 CFR 1.52. Use of Courier, Arial or Times New Roman in a font size of 12, and line spacing of 1 ½ or double spaced is requested.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by

being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

2. Applicants' argue that electronic filing resulted in the large font and there is no rule preventing the current font or font size, and therefore Applicant will not comply with the Examiner's request. The Examiner maintains the objection to the specification. While the MPEP does not specifically *prevent* the current font size, the MPEP does specify guidelines for the font to assist in examination of the case. The Examiner again requests that Applicants assist the examination process of their application by providing a specification with the suggested font size and type.

Claim Rejections - 35 USC § 112

3. The rejection of claims 1-10 under 35 USC 112, second paragraph is withdrawn in view of the amendment of the claims.

Claim Rejections - 35 USC § 102

4. Claims 1 and 4-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lightner et al (US Patent 6,372,965 in IDS) as stated in the last office action.

5. Applicants' arguments filed March 2, 2007 have been fully considered but they are not persuasive. Applicants argue that Lightner et al do not teach an increase in total oil level. Applicants argue that Lightner et al only describe changes in relative levels of certain fatty acids

and therefore does not anticipate the claims. The Examiner maintains that Lightner et al teach the same method that is claimed and that an increase in total oil level would be inherent in the same method.

Claim Rejections - 35 USC § 103

6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lightner et al (US Patent 6,372,965 in IDS), as stated in the last office action.

7. Applicants' arguments filed March 2, 2007 have been fully considered but they are not persuasive. Applicants argue that Lightner et al do not teach an increase in total oil level. Applicants argue that Lightner et al only describe changes in relative levels of certain fatty acids and does not teach how one might increase total oil level. The Examiner maintains that applicants have not taught method steps that would distinguish their method from the method taught by Lightner et al. The Examiner maintains that Lightner et al teach the same method that is claimed and that an increase in total oil level would be inherent in the same method, and the evidence for non-obviousness should be commensurate with the scope of the claims.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

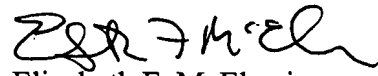
No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth F. McElwain whose telephone number is (571) 272-0802. The examiner can normally be reached on increased flex time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 1638

A handwritten signature in black ink, appearing to read 'Elizabeth F. McElwain', written in a cursive style.

Elizabeth F. McElwain

Primary Examiner

Art Unit 1638

EFM